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GOLDEN MEDIA GROUP, Inc.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

UM CORPORATION, a Japanese
corporation,

Plaintiff,

vs.

TSUBURAYA PRODUCTIONS CO.
LTD., a Japanese corporation,

Defendant.

AND RELATED CROSS-CLAIMS

Case No. 2:15-cv-03764-AB(AJWx)

COUNTERDEFENDANT GOLDEN
MEDIA GROUP, INC.'S ANSWER
AND AFFIRMATIVE DEFENSES TO
TSUBURAYA PRODUCTIONS, CO.,
LTD.'S COUNTERCLAIMS FOR:

(1) COPYRIGHT INFRINGEMENT
(2) DECLARATORY RELIEF

Judge: Hon. Andrew Birotte, Jr.

Trial Date: None Set

1 Counterdefendant Golden Media Group, Inc. (“GMG”), by and through
2 its undersigned counsel, hereby answers the Counterclaims of Defendant and
3 Counter-Claimant Tsuburaya Productions Co., Ltd. (“Counter-Claimant,”
4 “Tsuburaya” or “TPC”). GMG denies all factual allegations set forth in the
5 Counterclaims unless expressly admitted. Any admission herein is limited to
6 the express language of the response and shall not be deemed an implied
7 admission of additional facts. To the extent paragraphs in the Counterclaims
8 are grouped under headings, these headings contain legal conclusions to which
9 no response is required; GMG denies each and every allegation made or
10 implied by such headings.

11 **NATURE OF THE ACTION**

- 12 1. GMG denies the allegations of paragraph 1.
- 13 2. GMG lacks knowledge or information sufficient to form a belief
14 as to the truth or accuracy of the allegations in paragraph 2 and on this basis
15 denies them.
- 16 3. GMG has licenses to distribute certain Ultraman motion pictures
17 in the United States. GMG lacks knowledge or information sufficient to form
18 a belief as to the truth or accuracy of remaining the allegations in paragraph 3
19 and on this basis denies them.
- 20 4. GMG denies that it is infringing on TPC’s copyrights in the
21 United States. GMG lacks knowledge or information sufficient to form a
22 belief as to the truth or accuracy of remaining the allegations in paragraph 4
23 and on this basis denies them.
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THE PARTIES

5. GMG lacks knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in paragraph 5 and on this basis denies them.

6. GMG lacks knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in paragraph 6 and on this basis denies them.

7. GMG lacks knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in paragraph 7 and on this basis denies them.

8. GMG lacks knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in paragraph 8 and on this basis denies them.

9. GMG lacks knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in paragraph 9 and on this basis denies them.

10. GMG admits the allegations of paragraph 10.

11. Paragraph 11 does not require a response. To the extent paragraph 11 does require a response, GMG denies the allegations therein.

12. GMG denies the allegations of paragraph 12.

JURISDICTION AND VENUE

13. Answering the allegations of paragraph 13, GMG admits that this Court has subject matter jurisdiction over the Copyright Act claims in this Action pursuant to 28 U.S.C. §§ 1331 and 1338, and denies the remaining allegations set forth in paragraph 13.

14. Answering the allegations of paragraph 14, GMG admits that this Court has personal jurisdiction over GMG only. GMG lacks knowledge or

1 information sufficient to form a belief as to the truth or accuracy of the
2 remaining allegations in paragraph 14 and on this basis denies them.

3 15. Answering the allegations of paragraph 15, GMG admits only for
4 the purposes of this action that venue is proper in this district, and denies the
5 the remaining allegations set forth in paragraph 15.

6 **FACTUAL ALLEGATIONS**

7 **Tsuburaya and the Ultraman Library**

8 16. GMG lacks knowledge or information sufficient to form a belief
9 as to the truth or accuracy of the allegations in paragraph 16 and on this basis
10 denies them.

11 17. GMG lacks knowledge or information sufficient to form a belief
12 as to the truth or accuracy of the allegations in paragraph 17 and on this basis
13 denies them.

14 18. GMG lacks knowledge or information sufficient to form a belief
15 as to the truth or accuracy of the allegations in paragraph 18 and on this basis
16 denies them.

17 19. GMG lacks knowledge or information sufficient to form a belief
18 as to the truth or accuracy of the allegations in paragraph 19 and on this basis
19 denies them.

20 20. GMG lacks knowledge or information sufficient to form a belief
21 as to the accuracy or authenticity of the image depicted in paragraph 20.
22 GMG lacks knowledge or information sufficient to form a belief as to the truth
23 or accuracy of the remaining allegations in paragraph 20 and on this basis
24 denies them.

25 21. GMG lacks knowledge or information sufficient to form a belief
26 as to the truth or accuracy of the allegations in paragraph 21 and on this basis
27 denies them.

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1 22. GMG lacks knowledge or information sufficient to form a belief
2 as to the accuracy or authenticity of the image depicted in paragraph 22.
3 GMG lacks knowledge or information sufficient to form a belief as to the truth
4 or accuracy of the remaining allegations in paragraph 22 and on this basis
5 denies them.

6 23. GMG lacks knowledge or information sufficient to form a belief
7 as to the accuracy or authenticity of the image depicted in paragraph 23.
8 GMG lacks knowledge or information sufficient to form a belief as to the truth
9 or accuracy of the remaining allegations in paragraph 23 and on this basis
10 denies them.

11 24. GMG lacks knowledge or information sufficient to form a belief
12 as to the truth or accuracy of the allegations in paragraph 24 and on this basis
13 denies them.

14 25. GMG lacks knowledge or information sufficient to form a belief
15 as to the truth or accuracy of the remaining allegations in paragraph 25 and on
16 this basis denies them.

17 26. GMG lacks knowledge or information sufficient to form a belief
18 as to the accuracy or authenticity of the image depicted in paragraph 26.
19 GMG lacks knowledge or information sufficient to form a belief as to the truth
20 or accuracy of the remaining allegations in paragraph 26 and on this basis
21 denies them.

22 27. GMG admits that Ultraman characters and movies are popular
23 among a number of persons in the United States. GMG lacks knowledge or
24 information sufficient to form a belief as to the truth or accuracy of the
25 allegations in paragraph 27 and on this basis denies them.
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1 28. GMG lacks knowledge or information sufficient to form a belief
2 as to the truth or accuracy of the allegations in paragraph 28 and on this basis
3 denies them.

4 29. GMG lacks knowledge or information sufficient to form a belief
5 as to the truth or accuracy of the allegations in paragraph 29 and on this basis
6 denies them.

7 **Counterdefendants' Infringement of the Ultraman Works**

8 30. GMG lacks knowledge or information sufficient to form a belief
9 as to the truth or accuracy of the allegations in paragraph 30 and on this basis
10 denies them.

11 31. GMG lacks knowledge or information sufficient to form a belief
12 as to the truth or accuracy of the allegations in paragraph 31 and on this basis
13 denies them.

14 32. GMG lacks knowledge or information sufficient to form a belief
15 as to the truth or accuracy of the allegations in paragraph 32 and on this basis
16 denies them.

17 33. GMG lacks knowledge or information sufficient to form a belief
18 as to the truth or accuracy of the allegations in paragraph 33 and on this basis
19 denies them.

20 34. Based on information which it obtained through publicly
21 available online sources GMG, admits that there was prior litigation in
22 Thailand regarding certain rights in and to the Ultraman characters. GMG
23 lacks knowledge or information sufficient to form a belief as to the truth or
24 accuracy of the allegations in paragraph 34 and on this basis denies them.

25 35. GMG lacks knowledge or information sufficient to form a belief
26 as to the truth or accuracy of the allegations in paragraph 35 and on this basis
27 denies them.

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1 36. GMG lacks knowledge or information sufficient to form a belief
2 as to the truth or accuracy of the allegations in paragraph 36 and on this basis
3 denies them.

4 37. GMG lacks knowledge or information sufficient to form a belief
5 as to the truth or accuracy of the allegations in paragraph 37 and on this basis
6 denies them.

7 38. GMG lacks knowledge or information sufficient to form a belief
8 as to the truth or accuracy of the allegations in paragraph 38 and on this basis
9 denies them.

10 39. The allegations of paragraph 39 are legal conclusions and
11 therefore no response is due. To the extent a response is required, GMG
12 specifically denies that it worked with other counterdefendants to “unlawfully”
13 exploit the Ultraman Library in the United States and denies all remaining
14 allegations in paragraph 39.

15 40. The allegations of paragraph 40 are legal conclusions and
16 therefore no response is due. To the extent a response is required, GMG
17 admits that representatives of TPC contacted certain third-party distributors of
18 Ultraman motion pictures in the United States claiming all rights in Ultraman
19 worldwide; GMG specifically denies that it “unlawfully” licensed works to
20 third parties; GMG otherwise denies all remaining allegations of paragraph 40.

21 41. GMG lacks knowledge or information sufficient to form a belief
22 as to the truth or accuracy of the allegations in paragraph 41 and on this basis
23 denies them.

24 42. GMG lacks knowledge or information sufficient to form a belief
25 as to the truth or accuracy of the allegations in paragraph 42 and on this basis
26 denies them.

1 43. The allegations of paragraph 43 are legal conclusions and
2 therefore no response is due. To the extent a response is required, GMG
3 denies that it is “presently engaged in . . . violations of Tsuburaya’s . . .
4 rights.” To the extent any further response is required, GMG lacks knowledge
5 or information sufficient to form a belief as to the truth or accuracy of the
6 remaining allegations in paragraph 43 and on this basis denies them.

7 44. The allegations of paragraph 44 are legal conclusions and
8 therefore no response is due. To the extent any response is due, GMG admits
9 that it is in the business of distributing certain Ultraman Works in the United
10 States, and is doing so without the “authorization” of Tsuburaya. To the
11 extent any further response is required, GMG lacks knowledge or information
12 sufficient to form a belief as to the truth or accuracy of the remaining
13 allegations in paragraph 44 and on this basis denies them.

14 45. GMG specifically denies that it is infringing on Tsuburaya’s
15 rights. GMG lacks knowledge or information sufficient to form a belief as to
16 the truth or accuracy of the remaining allegations in paragraph 45 and on this
17 basis denies them.

18 **FIRST COUNTERCLAIM FOR RELIEF**

19 (Copyright Infringement against all Counterdefendants)

20 (17 U.S.C. §§ 106 *et seq.* and 501)

21 46. Paragraph 46 does not contain any allegations of fact to which an
22 answer is required. GMG denies that Tsuburaya is entitled to any relief
23 against GMG.

24 47. Answering the allegations of paragraph 47, GMG specifically
25 denies that TPC has any rights in any of the works listed in the 1976
26 Agreement in the United States. GMG otherwise lacks knowledge or
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1 information sufficient to form a belief as to the truth or accuracy of the
2 remaining allegations in paragraph 47 and on this basis denies them.

3 48. The allegations of paragraph 48 are legal conclusions and
4 therefore no response is due. To the extent a response is required, GMG
5 denies the allegations in paragraph 48.

6 49. The allegations of paragraph 49 are legal conclusions and
7 therefore no response is due. To the extent a response is required, GMG
8 denies the allegations in paragraph 49.

9 50. The allegations of paragraph 50 are legal conclusions and
10 therefore no response is due. To the extent a response is required, GMG
11 denies the allegations in paragraph 50.

12 **SECOND COUNTERCLAIM FOR RELIEF**

13 (Declaratory Relief against all Counterdefendants)

14 51. Paragraph 51 of the Counterclaims does not contain any
15 allegations of fact to which an answer is required. GMG denies that
16 Tsuburaya is entitled to any relief against GMG.

17 52. GMG admits the allegations of paragraph 52.

18 53. GMG lacks knowledge or information sufficient to form a belief
19 as to the truth or accuracy of the remaining allegations in paragraph 53 and on
20 this basis denies them.

21 54. Paragraph 54 does not contain any allegations of fact to which an
22 answer is required. GMG denies that TPC is entitled to any relief against
23 GMG.

24 **PRAYER FOR RELIEF**

25 GMG denies that Tsuburaya is entitled to any judgment in its favor
26 and/or any of the relief requested in Tsuburaya's Prayer for Relief.
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1 **AFFIRMATIVE DEFENSES**

2 Pursuant to Rule 8(c) of the Federal Rules of Civil Procedure, GMG
3 further pleads the following separate and additional defenses. By pleading
4 these defenses, GMG does not in any way agree or concede that it has the
5 burden of proof or persuasion on any of these issues. GMG reserves the right
6 to assert such additional affirmative defenses as discovery indicates are proper.
7 For its affirmative defenses, GMG alleges on information and belief that:

8 **FIRST AFFIRMATIVE DEFENSE**

9 TPC's counterclaims fail to state a claim upon which relief can be
10 granted.

11 **SECOND AFFIRMATIVE DEFENSE**

12 TPC has no valid, enforceable or protectable rights or interest in some
13 or all of the alleged copyrights or other matters asserted.

14 **THIRD AFFIRMATIVE DEFENSE**

15 TPC's counterclaims are barred in whole or in part by TPC's unclean
16 hands.

17 **FOURTH AFFIRMATIVE DEFENSE**

18 TPC has not been damaged in any amount or manner because of any act
19 alleged against GMG in the counterclaims, and, therefore, the relief prayed for
20 in the counterclaims cannot be granted.

21 **FIFTH AFFIRMATIVE DEFENSE**

22 TPC's counterclaims are barred on the grounds of legal justification or
23 excuse.

24 **SIXTH AFFIRMATIVE DEFENSE**

25 TPC's counterclaims are barred in whole or in part by the applicable
26 statutes of limitations.

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1 **SEVENTH AFFIRMATIVE DEFENSE**

2 TPC's claims are barred in whole or in part by the doctrine of laches.

3 **EIGHTH AFFIRMATIVE DEFENSE**

4 TPC's counterclaims are barred in whole or in part by the doctrines of
5 waiver, estoppel, acquiescence or abandonment.

6 **NINTH AFFIRMATIVE DEFENSE**

7 TPC's counterclaims are barred in whole or in part by the doctrines of
8 collateral estoppel, adjudicatory comity, and/or *res judicata*.

9 **TENTH AFFIRMATIVE DEFENSE**

10 To the extent TPC's counterclaims seek reliefs for alleged
11 extraterritorial acts that occurred outside of the United States, TPC's
12 counterclaims are barred due to lack of subject matter jurisdiction.

13 **ELEVENTH AFFIRMATIVE DEFENSE**

14 TPC's claims are barred in whole or in part by the doctrine of illegality
15 and the fact that TPC's actions violate applicable law.

16 **TWELFTH AFFIRMATIVE DEFENSE**

17 TPC's claims are barred in whole or in part because the alleged
18 infringement was innocent, in good faith with non-willful intent, at all times.

19 **PRAYER FOR RELIEF**

20 WHEREFORE, GMG respectfully requests that this Court:

- 21 1. Dismiss with prejudice the Counterclaims and the claims for
22 relief contained therein;
- 23 2. Determine and declare that GMG is not liable for Copyright
24 Infringement;
- 25 3. Award GMG its reasonable attorneys' fees incurred in this action;
- 26 4. Award GMG costs incurred in this action; and
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1 5. Grant such other and further relief as the Court deems just proper.

2 Dated: November 19, 2015.

3 PILLSBURY WINTHROP SHAW
4 PITTMAN LLP
5 RICHARD H. ZAITLEN
6 JENNIFER A. SEIGLE
7 LAURA A. LEVINE

8 By: /s/ Richard H. Zaitlen
9 Richard H. Zaitlen
10 Attorneys for Counterdefendant
11 GOLDEN MEDIA GROUP, Inc.